

4509  
1 BILL NO. S-79-06-32

2 SPECIAL ORDINANCE NO. S-114-79

3 AN ORDINANCE approving an Agreement with  
4 Macke Development Corporation, for construc-  
tion of a sanitary sewer.

5 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,  
6 INDIANA:

7 SECTION 1. That the Agreement dated May 21, 1979, between the  
8 City of Fort Wayne, by and through its Mayor and the Board of Public Works  
9 and Macke Development Corporation, Developer, for:

10 SANITARY SEWER

11 Pine Valley Country Club 12th Addition

12 Main #1

13 Beginning at an existing sanitary manhole located near the  
14 Southwest corner of lot #630 of said addition; thence,  
15 Northerly 260+ L.F. along the West property line of said  
lot and lot #674 of said addition to a proposed manhole  
16 located near the Northwest corner of said lot #674; thence,  
Easterly 620+ L.F. along the North property line of lot  
17 #620 thru #674 inclusive to proposed manhole located near  
the Northeast corner of lot #670 of said addition.

18 Lateral #1

19 Beginning at a existing sanitary sewer manhole located  
20 5+ L.F. west of and 5+ L.F. north of the Southeast corner  
of lot #662 of said addition then Northerly 735+ L.F.  
21 along the East property line of lot #662 thru lot #669  
inclusive terminating at a proposed manhole 65+ L.F. North  
22 of 5+ L.F. West of the Southeast corner of Lot #669 of  
said addition.

23 of which the developer shall pay the entire cost and expense of the construc-  
24 tion of said sewer, all as more particularly set forth in said agreement  
25 which is on file in the Office of the Board of Public Works and is by  
26 reference incorporated herein, made a part hereof and is hereby in all things  
27 ratified, confirmed and approved.

28 SECTION 2. That this Ordinance shall be in full force and effect  
29 from and after its passage and approval by the Mayor.

30  
31 APPROVED AS TO  
FORM & LEGALITY

32 .....  
William N. Solin, City Attorney

  
Councilman

Read the first time in full and on motion by Burns, seconded by O. Schmidt, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.  
DATE: 6-26-79. Charles W. Waterman  
CITY CLERK

Read the third time in full and on motion by Burns, seconded by O. Schmidt, and duly adopted, placed on its passage.  
PASSED ~~(LAST)~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>HUNTER</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____

STIER X  
TALARICO X  
DATE: 7-10-79

Charles W. Waterman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE  
(RESOLUTION) No. S-114-79 on the 10th day of July, 1979.  
ATTEST: (SEAL)

Charles W. Waterman  
CITY CLERK

Winful C. Mayo JR  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of July, 1979, at the hour of 11:30 o'clock A M., E.S.T.  
Charles W. Waterman  
CITY CLERK

Approved and signed by me this 13th day of July, 1979  
at the hour of 4:15 o'clock P M., E.S.T.  
Robert E. Elmer  
MAYOR

Bill No. S-79-06-32

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance  
approving an Agreement with Macke Development Corporation, for  
construction of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance ad PASS.

PAUL M. BURNS - CHAIRMAN

SAMUEL J. TALARICO - VICE CHAIRMAN

VIVIAN G. SCHMIDT

DONALD J. SCHMIDT

JAMES S. STIER

CONCURRED IN

7-10-79  
DATE \_\_\_\_\_ CHARLES W. WESTERMAN, CITY CL

# Memorandum

To BOARD OF PUBLIC WORKS

Date MAY 21, 1979

From PHILIP R. BOLLER, P.E.

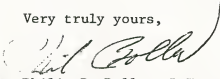
Subject PINE VALLEY COUNTRY CLUB 12th ADDITION

## COPIES TO:

Please find attached for your councilmanic approval is an Agreement for Sewer Extension and a Sewer Construction Permit on the above captioned project, with a Performance and Guaranty Bond in the amount of \$5,487.50.

If this meets with your approval, please execute and return to this Department. Also, please issue a Board Order.

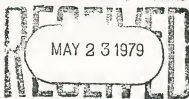
Very truly yours,

  
Philip R. Boller, P.E.  
Chief Water Pollution Control Engineer

PRB:DE:bp

attachments

BOARD OF PUBLIC WORKS



## NOTED

☐ H.P.W.

☐ E.H.L.

☐ M.G.G.

Date \_\_\_\_\_

A G R E E M E N T

F O R

S E W E R   E X T E N S I O N

THIS AGREEMENT made in triplicate this 21<sup>st</sup> day of May, 1979, by and between Macke Development Corp., by its President, Elmer H. Macke, hereinafter referred to as "Developer" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City", WITNESSETH:

WHEREAS, the Developer desires to construct a sanitary sewer described as follows:

Pine Valley Country Club 12th Addition

Main #1

Beginning at an existing sanitary manhole located near the Southwest corner of lot #630 of said addition; thence, Northerly 260± L.F. along the West property line of said lot and lot #674 of said addition to a proposed manhole located near the Northwest corner of said lot #674; thence, Easterly 620± L.F. along the North property line of lot #620 thru #674 inclusive to proposed manhole located near the Northeast corner of lot #670 of said addition.

Lateral #1

Beginning at a existing sanitary sewer manhole located 5± L.F. west of and 5± L.F. north of the Southeast corner of lot #662 of said addition then Northerly 735± L.F. along the East property line of lot #662 thru lot #669 inclusive terminating at a proposed manhole 65± L.F. North of 5± L.F. West of the Southeast corner of Lot #669 of said addition.

All sewers consist of 1615± L.F. of 8-inch sanitary pipe in accordance with plans, specifications and profiles heretofore submitted to the City submitted to the City and now on file in the Office of the Chief Water Pollution Control Engineer of the City Utilities of the City, and known as PINE VALLEY COUNTY CLUB, 12TH ADDITION, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the Developer has an interest, but also adjoining land areas.

WHEREAS, the entire cost of construction of said sewer is to be paid for by the Developer.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER.

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under

private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

## 2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including engineering and City inspection fees, and to hold the City harmless from any liability for claims connected therewith.

## 3. AREA OF DEVELOPER

Said sewer, when accepted by the City will serve the following described real estate, to be platted as Pine Valley Country Club, 12th Addition.

A parcel of land located in the East One-half of the Southwest One-quarter of Section 27, Township 32 North, Range 12 East, Allen County, Indiana more particularly described as follows:

Commencing at the Southwest corner of the East One-half of the Southwest One-quarter of Section 27, Township 32 North, Range 12 East, Allen County, Indiana; thence due North along the East line of said East One-half a distance of 1,330 feet to the Point of Beginning.

Beginning at the above-described point; thence continuing due North along the East line of said East One-half a distance of 285.00 feet; thence due East a distance of 285.00 feet; thence North 73 degrees 00 minutes 00 seconds East a distance of 170.00 feet; thence North 65 degrees 32 minutes 40 seconds East a distance of 170.00 feet; thence South 13 degrees 13 minutes 00 seconds East a distance of 185.00 feet; thence due South a distance of 805.18 feet; thence North 75 degrees 49 minutes 00 seconds West a distance of 34.20 feet; thence South 74 degrees 28 minutes 00 seconds West a distance of 325.00 feet to the Point of Beginning. Parcel contains 8.95 acres, more or less.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

## 4. CHARGE AGAINST AREA

An area connection charge of \$475.00 per acre must be paid to City at the time of connection. This area connection charge represents the oversizing cost expended by City for sewer line in providing service to Pine Valley Country Club Subdivision, Eleventh Addition; said sewer being the St. Joe Interceptor.

5. BOND

This contract is subject to Developer furnishing a satisfactory Performance and Guaranty Bond for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The Developer, for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Developer, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorize ordinance the said real estate described in Article 3 herein.

Developer further agrees that any deed, contracts, or other instruments of conveyance made by the Developer, its successors or assigns, transferring or conveying any interest of title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, his successors and assigns by any grantee, vendee or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record any executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed

to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, I.C. 19-2-7-17, and I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOFF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER:

MACKE DEVELOPMENT CORP.

BY:

Elmer H. Macke  
Elmer H. Macke

Martha M. Macke  
Martha M. Macke, Secretary

STATE OF INDIANA    )  
                              ) SS:  
COUNTY OF ALLEN    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Elmer H. Macke and Martha M. Macke, who acknowledged the execution of the foregoing agreement for sewer extension as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 21st day of May, 1979.

My Commission Expires:

September 18, 1979

Sandra S. Deahl  
Sandra S. Deahl                      Notary Public

Resident of Allen County, Indiana



CITY OF FORT WAYNE, INDIANA

By: \_\_\_\_\_  
Robert Armstrong, Mayor

BOARD OF PUBLIC WORKS

By: \_\_\_\_\_  
Henry P. Wehrenberg, Chairman

By: \_\_\_\_\_  
Ethel H. LaMar, Member

By: \_\_\_\_\_  
Max G Scott, Member

Approved as to form and legality:

\_\_\_\_\_  
Associate City Attorney

ATTEST:

\_\_\_\_\_  
STATE OF INDIANA )  
                          ) SS  
COUNTY OF ALLEN )

Before me, the undersigned, a Notary Public in and for said County and State personally appeared Robert E. Armstrong, Henry P. Wehrenberg, Ethel H. LaMar and Max G Scott, known to me to be the Mayor, the members of the Board of Works of the City of Fort Wayne, Indiana, respectively, and acknowledge the foregoing contract to be the voluntary act and deed of said City.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

My Commission Expires

\_\_\_\_\_  
Notary Public

Resident of \_\_\_\_\_ County, Indiana

This instruemtn prepared by: Philip R. Boller, Chief Water Pollution Control Engineer

7507  
TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREE. FOR SEWER EXT. FOR PINE VALLEY COUNTRY CLUB, 12th ADD

DEPARTMENT REQUESTING ORDINANCE \_\_\_\_\_ BOARD OF PUBLIC WORKS S-79-06-321

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION FOR PINE VALLEY COUNTRY CLUB, 12th ADDITION,

MACKE DEVELOPMENT CORP., DEVELOPER AND JOHN HARTMAN CONSTRUCTION CO., CONTRACTOR FOR THE PROJECT,

FOR THE CONSTRUCTION OF SANITARY SEWERS TO SERVE THE ABOVE-DESCRIBED AREA.

(AGREEMENT FOR SEWER EXT. ATTACHED)

EFFECT OF PASSAGE SANITARY SEWER INSTALLATION FOR PINE VALLEY COUNTRY CLUB, 12th ADD.

EFFECT OF NON-PASSAGE INABILITY TO PROCEED WITH CONSTRUCTION OF SEWERS TO SERVE PINE VALLEY COUNTRY CLUB 12th ADD.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY THE ENTIRE COST AND  
EXPENSE OF CONSTRUCTION OF SAID SEWER IN CASH, INCLUDING ENGINEERING AND CITY INSPECTION FEES

ASSIGNED TO COMMITTEE \_\_\_\_\_